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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DANIEL MURILLO, individually,  
and on behalf of a class of similarly  
situated individuals,

Plaintiffs,

v.

SHARKNINJA OPERATING LLC.,  
a Massachusetts limited liability  
company,

Defendant.

Case No.:

**CLASS ACTION COMPLAINT FOR:**

- (1) Violations of Unfair Competition Law, California Business & Professions Code § 17200 *et seq.*
- (2) Violations of California's Consumers Legal Remedies Act
- (3) Breach of Implied Warranty Pursuant to Song-Beverly Consumer Warranty Act
- (4) Breach of Implied Warranty Pursuant to the Magnuson-Moss Warranty Act
- (5) Unjust Enrichment

**DEMAND FOR JURY TRIAL**

## INTRODUCTION

1. Plaintiff Daniel Murillo (“Plaintiff”) brings this action for himself and on behalf of all persons in the United States who, at any time in the last four years prior to the filing of this complaint, purchased one or more Ninja Blenders with a Stacked Blade Assembly<sup>1</sup> (“Ninja Stacked Blade Blenders” or “Ninja Blenders”)<sup>2</sup> designed, manufactured, marketed, distributed, sold, and warranted by SharkNinja Operating LLC, a Massachusetts limited liability company (“SharkNinja” or “Defendant”).

2. This case arises out of a defect in the Ninja Stacked Blade Blenders whereby the Stacked Blade Assembly fails to lock in place inside the Ninja Blender pitchers and, consequently, dislodges during use and cleaning, exposing consumers to unexpected and sudden direct contact with the sharp blades, resulting in safety hazards, such as lacerations (the “Stacked Blade Assembly Defect”).

3. According to Consumer Reports, “Ninja is the only manufacturer [] that uses a blade assembly that isn’t locked into the container during use. Its blades are also sharper than many other blenders ...” and its “drawback is that the knife-like assembly isn’t anchored in any way to the container, raising the risk of laceration.”<sup>3</sup>

4. As depicted below, SharkNinja consistently advertises its Ninja

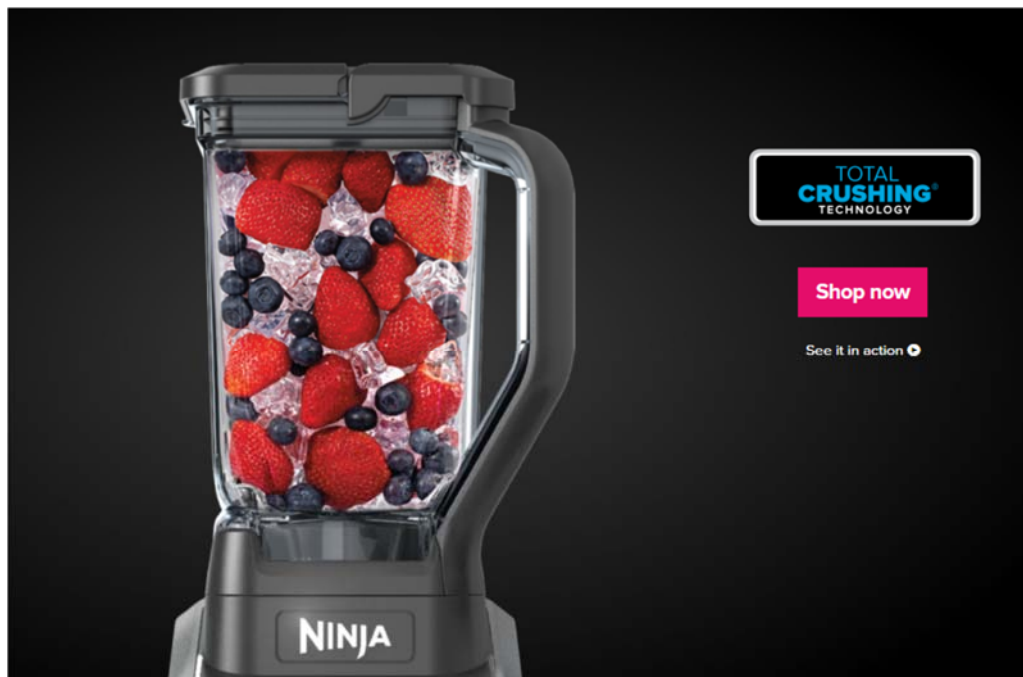
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<sup>1</sup> The Ninja Stacked Blade Blenders “feature a unique ‘stacked blade’ assembly consisting of multiple sharp blades mounted at different heights inside the container ...” See <https://www.consumerreports.org/blenders/ninja-blenders-recalled-due-to-laceration-risk/>

<sup>2</sup> On information and belief, the Ninja Stacked Blade Blenders include, without limitation, the Ninja Intelli-Sense Series Blenders, the Ninja 4-in-1 Kitchen System, the Nutri Ninja Blender Duo with Auto-iQ, the Nutri Ninja Blender System with Auto-iQ, the Nutri Ninja BlendMAX DUO with Auto-iQ Boost, the Total Crushing Series Blenders, and the Ninja Ultima Series Blenders.

<sup>3</sup> <https://www.consumerreports.org/blenders/ninja-blenders-recalled-due-to-laceration-risk/>

1 Blenders with the Stacked Blade Assembly inside the blending pitcher. At no  
2 point prior to opening the packaging and removing the blender are consumers  
3 informed or aware that the Stacked Blade Assembly is separate from the blending  
4 unit and does not lock into place inside the pitcher.



1           5.     In 2015, in an effort to address consumer complaints regarding the  
2     Stacked Blade Assembly Defect and resulting injuries, SharkNinja issued a  
3     voluntary recall of certain Ninja Blenders with stacked blade assemblies stating  
4     that, “[t]he blender poses a laceration risk if consumers pour or invert the pitcher  
5     after removing the lid while the loose stacked blade assembly is still inside the  
6     pitcher.”<sup>4</sup> The recall affected approximately 1.1 million units sold in the United  
7     States between March 2012 and September 2015.

8           6.     However, the recall was “different from most in that Ninja [wasn’t]  
9     actually telling consumers to stop using their blenders, nor [was] it issuing a stop  
10    sale with retailers. Instead, it [was] giving customers a revised safety warning.”  
11    Thus, the Stacked Blade Assembly Defect continued and expanded as more  
12    models with Stacked Blade Assemblies were introduced to the public.  
13    SharkNinja, to this date, has not modified or redesigned the Stacked Blade  
14    Assembly and consumers, like Plaintiff and Class Members, continue to  
15    unknowingly purchase the Ninja Stacked Blade Blenders and subsequently  
16    experience the Stacked Blade Assembly Defect.

17          7.     The Stacked Blade Assembly Defect is inherent in each of the Ninja  
18    Blenders, and is present at the time of sale.

19          8.     Because SharkNinja will not notify Class Members that the Stacked  
20    Blade Assembly is defective, Plaintiff and Class Members (as well as members of  
21    the general public) remain subject to dangerous conditions while operating the  
22    Ninja Stacked Blade Blenders.

23          9.     If Plaintiff and Class Members knew about these defects at the time  
24    of purchase, Plaintiff and Class Members would not have purchased the Ninja  
25    Blenders or would have paid less for them.

26          10.    As a result of their reliance on Defendant’s omissions and  
27

28                 <sup>4</sup> <https://www.cpsc.gov/Recalls/2016/Laceration-Injuries-Prompt-SharkNinja-to-Recall-Ninja-BL660-Blenders#>

1 representations, consumers have suffered an ascertainable loss of money,  
2 including, but not limited to, out of pocket costs incurred in purchasing the Ninja  
3 Stacked Blade Blender. Further, as a result of its deceptive marketing and unfair  
4 competition with other similar manufacturers and brands, SharkNinja realized  
5 sizable profits.

## 6 **PARTIES**

### 7 **PLAINTIFF Daniel Murillo**

8 11. Plaintiff Daniel Murillo is a California citizen who resides in South  
9 Gate, California. During the class period alleged herein, Plaintiff purchased a  
10 Ninja Stacked Blade Blender. Specifically, Plaintiff purchased a Ninja Kitchen  
11 System 1200, model number BL700, equipped with a Stacked Blade Assembly,  
12 from Fry's Electronics in Fountain Valley, California, a SharkNinja authorized  
13 retailer in Orange County.

14 12. Prior to purchasing his Ninja Stacked Blade Blender, Plaintiff saw,  
15 and relied upon, the Ninja Blender's outer packaging that depicted the stacked  
16 blade assembly secured inside the blending pitcher. At the time of purchase,  
17 Plaintiff did not know, and had no reason to know, that the Stacked Blade  
18 Assembly separates from the blender unit and cannot lock into place. User safety,  
19 including having the Stacked Blade Assembly lock in place inside the blending  
20 pitcher, was important to Plaintiff because his wife and daughter would be using  
21 the blender and he did not want them to be exposed to loose blades.

22 13. Plaintiff purchased his Ninja Blender primarily for personal, family,  
23 or household use. SharkNinja manufactured, distributed, advertised, marketed,  
24 and warranted the blender.

25 14. Plaintiff was forced to stop using his Ninja Stacked Blade Blender  
26 after approximately six months because the Stacked Blade Assembly continually  
27 dislodged and fell out of the blending pitcher during blending, pouring, and  
28 cleaning, despite careful handling, and would expose Plaintiff and his family

1 members to the sharp blades. On one occasion, Plaintiff's daughter was cut when  
2 the Stacked Blade Assembly came loose during blending.

3 15. If Defendant had disclosed that the Stacked Blade Assembly did not  
4 lock in place inside the blending pitcher, unlike all other similar and competing  
5 blenders, and would dislodge during use and cleaning, Plaintiff would have seen  
6 or heard such disclosures and been aware of them prior to purchase. Indeed,  
7 SharkNinja's omissions were material to Plaintiff. If Plaintiff had known at the  
8 time of purchase that the Stacked Blade Assembly did not lock in place inside the  
9 blending pitcher, he would not have purchased the Ninja Blender.

10 16. Plaintiff would consider purchasing a Ninja Blender in the future if  
11 they no longer exhibited the Stacked Blade Assembly Defect.

12 **DEFENDANT**

13 17. Defendant SharkNinja Operating LLC is a limited liability company  
14 organized and in existence under the laws of the State of Massachusetts and is  
15 registered to do business in the State of California. SharkNinja Operating LLC's  
16 corporate headquarters and principal place of business are located at 180 Wells  
17 Ave., Suite 200, Newton, MA 02459. SharkNinja designs, produces,  
18 manufactures, markets, distributes, and sells Ninja Blenders worldwide,  
19 nationwide, and throughout California.

20 18. At all relevant times, Defendant was and is engaged in the business of  
21 marketing, distributing, and selling Ninja Stacked Blade Blenders in Orange  
22 County, and throughout the United States of America.

23 **JURISDICTION**

24 19. This is a class action.

25 20. This Court has subject matter jurisdiction over this matter pursuant  
26 to 28 U.S.C. § 1331 because this action arises under the Constitution or laws of  
27 the United States and the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2) and  
28 (6), in that, as to each Class defined herein:

- a. the matter in controversy exceeds \$5,000,000.00, exclusive of interest and costs;
- b. this is a class action involving 100 or more class members; and
- c. this is a class action in which at least one member of the Plaintiff class is a citizen of a State different from at least one Defendant.

21. The Court has personal jurisdiction over Defendant, which has at least minimum contacts with the State of California because it has conducted business there and has availed itself of California's markets through the marketing, distributing, and selling of Ninja Stacked Blade Blenders.

### VENUE

22. SharkNinja, through its business of advertising, distributing, and selling Ninja Stacked Blade Blenders, has established sufficient contacts in this district such that personal jurisdiction is appropriate. Defendant is deemed to reside in this district pursuant to 28 U.S.C. § 1391(a).

23. In addition, a substantial part of the events or omissions giving rise to these claims and a substantial part of the property that is the subject of this action are in this district. In addition, Plaintiff Murillo's Declaration, as required under California Civil Code § 1780(d) (but not pursuant to *Erie* and federal procedural rules), reflects that a substantial part of the events or omissions giving rise to the claims alleged herein occurred, or a substantial part of property that is the subject of this action, is situated in Orange County, California. It is attached as **Exhibit 1**.

24. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a).

### FACTUAL ALLEGATIONS

25. Since at least 2012, SharkNinja has designed, manufactured, distributed, and sold the Ninja Stacked Blade Blenders. SharkNinja has sold, directly or indirectly, through its website and other retail outlets, millions of Ninja Blenders equipped with the Stacked Blade Assembly in California and



1 nationwide.

2 26. Plaintiff is informed and believes, and based thereon alleges, that the  
3 Stacked Blade Assembly contains a design defect that causes, among other  
4 problems, the Stacked Blade Assembly to fail to lock in place inside the Ninja  
5 Blender pitchers and dislodge during use and cleaning, exposing consumers to  
6 unexpected and sudden direct contact with the sharp blades, which can cause  
7 lacerations. Specifically, the Stacked Blade Assembly contains no locking  
8 mechanism or safety lock features to secure the sharp blades inside the blending  
9 pitcher. As a result, the Stacked Blade Assembly will dislodge while blending, in  
10 some instances breaking the plastic pitcher, and/or suddenly fall out while pouring  
11 the blended contents or cleaning the pitcher and causing incredibly unsafe  
12 situations for consumers.

13 27. According to Consumer Reports, “Ninja is the only manufacturer []  
14 that uses a blade assembly that isn’t locked into the container during use. Its  
15 blades are also sharper than many other blenders ...” and its “drawback is that the  
16 knife-like assembly isn’t anchored in any way to the container, raising the risk of  
17 laceration.”<sup>5</sup>

18 28. The Stacked Blade Assembly Defect is inherent in all Ninja Stacked  
19 Blade Blenders and the Stacked Blade Assembly Defect is the same for all Ninja  
20 Stacked Blade Blenders.

21 29. Dating back to at least July 2012, SharkNinja was aware of the  
22 defects of the Stacked Blade Assembly. SharkNinja, however, failed to disclose  
23 this defect to consumers. Because of this failure, Plaintiff and Class Members  
24 have been damaged.

25 30. Many purchasers and users of the Ninja Stacked Blade Assembly  
26 Blenders have experienced problems with the Stacked Blade Assembly.

27  
28 <sup>5</sup> <https://www.consumerreports.org/blenders/ninja-blenders-recalled-due-to-laceration-risk/>



Complaints filed by consumers with the Consumer Product Safety Commission and SharkNinja, as well as elsewhere online, demonstrate that the defect is widespread and dangerous, and that it manifests without warning. The complaints also indicate Defendant's awareness of the problems with the Stacked Blade Assembly and how potentially dangerous the defective condition is for consumers. The following are some safety complaints relating to the Stacked Blade Assembly Defect (spelling and grammar mistakes remain as found in the original) (SaferProducts.gov, *Search for Recalls and Reports* (July 30, 2018), <https://www.saferproducts.gov/Search/default.aspx>):

- a. 11/13/2012 - The consumer stated that she was drying the blade with a kitchen towel. The blade went through the towel and cut her right thumb. She applied pressure to her thumb but the bleeding would not stop. The consumer stated that her husband took her to Nassau University Hospital in East Meadow, NY. The consumer was seen by the emergency room attendant. The consumer stated that the cut had to be glued together. She did not know the width or depth of the cut. She was prescribed an antibiotic and released the same day. The consumer stated that this is an unsafe product. (Ninja Pro System 1100)
- b. 2/18/2013 - I was using the blender for the first time. I put it together as shown in the quick start guide. After blending my smoothie I tried to pour some of it through the small flip top lid but it was too thick so I had to remove it. The blade tower seemed to snap into place when I placed it in the unit and I thought it secured. As I poured some of the smoothie into a cup to check the consistency the blade tower came out slicing my thumb. When I contacted the company I was told that I should reach into the blender and whatever is in the blender to remove the blade tower before pouring anything. This makes no sense since the blades are covered by in this case a thick, viscous and opaque material ie... fruit smoothie. I could not see the location of the blades in the unit nor would I stick my hands in and grab them if I could. This product is inherently unsafe and the company should know that. (Ninja Kitchen System 1100)
- c. 3/13/2013 The caller stated that the blender has razor sharp blades which were exposed when he opened the packaging and he received lacerations to his right index finger. The unit is not secured properly so the user is not aware that the blades are exposed. He sustained injury to his right finger and will seek medical
- d. attention later. The caller feels that this blender is a safety hazard and should be reported. (Ninja Master Prep Profession)
- e. 5/8/2013 – The consumer stated that the device has a whirling blade. His wife put the blade on but it was not secure. When his wife turned the device on, the blade flew off of the axis. It chipped off bits of the plastic from the inside of the container. Bits of the plastic was in the smoothie. This was the first time that the product had been used. The consumer considers this to be an unsafe product. (Ninja Master Prep)
- f. 1/23/2014 The consumer had used the blender to make a smoothie and

1 was pouring it into a glass. She poured the remainder of the smoothie into  
 2 a cup. As she was pouring it into the cup, the blade from the blender came  
 3 loose and hit her left index finger right below the knuckle. The consumer  
 4 stated that she had to go to Urgent Care in Fort Mill. She received five  
 5 stitches in her finger and a tetanus shot. The consumer stated that the  
 6 system had to be assembled. (Ninja Mega Kitchen System)

7 g. 6/17/2014 Consumer stated that her daughter had finished using the  
 8 blender and while she was pouring out the contents a blade fell out and  
 9 caused her to received laceration on her left hand. She was given first aid  
 10 from consumer who is a medical professional (nurse). There were no prior  
 11 incidents. She had used it several times before this incident occurred. The  
 12 manufacturer was contacted 6/12/14 through email but she did not receive  
 13 a response as yet. Consumer feels that the blender is a safety hazard and  
 14 should be reported. (Ninja Professional BL660)

15 h. 7/28/2014 – I went to use my ninja blender for the first time today. As I  
 16 got it out to clean it, the blade fell onto my foot. The blade sliced deeply  
 17 into foot, to the bone. I was bleeding all over and screamed for my sisters  
 18 help. As she ran to assist me, she accidentally kicked the blade that was  
 19 lying next to me, as she did not see it. This resulted in half her toe being  
 20 cut off, and part of the bone. We spent most of the day in the ER. I got  
 21 away with just stitches and a tetanus shot... My sister was referred to a  
 22 plastic surgeon to get a skin graft on her toe. Maybe this company should  
 23 consider putting a button release for the blade, considering it is sharp  
 24 enough to cut bone. (Ninja Mega Kitchen System)

25 i. 9/7/2014 – While cleaning the Ninja Blender I poured the warm water  
 26 soap solution out (as indicated by the directions) at which point the blades  
 27 fell out of the blender hitting my right hand creating deep lacerations  
 28 across my middle and ring fingers. This immediately caused loss of  
 control and sensation in my ring finger. I was taken to the emergency  
 department for medical treatment, I have since been under the care of a  
 hand surgeon who was able to surgically reattach my tendons, though I  
 may have some permanent nerve damage. This product has caused me a  
 great deal of unnecessary pain and suffering. The Ninja blender product  
 design is flawed and needs to be removed from the market to prevent any  
 future injuries. (Ninja Mega Kitchen System)

29 j. 1/28/2015 – I was using my Ninja Professional Blender (Model BL660) to  
 30 blend frozen fruit and milk. This blender was purchased on or around  
 31 August 2014 from BJ's Wholesale Club and was being used as it has been  
 32 each day since purchasing. After blending for approximately 10 seconds,  
 33 the right side of the blender exploded out, and shot about 8 feet across my  
 34 kitchen landing next to the table where my 2 children were eating  
 35 breakfast. There were 2 separate pieces that were approximately 2" and 4",  
 36 with razor sharp edges. The contents of the blender were sprayed across  
 37 my kitchen out of this opening. Needless to say, I am EXTREMELY  
 38 concerned about this product and have contacted Ninja twice regarding  
 this matter. I have not yet heard back from their claims department. I took  
 several pictures of the blender following the incident that can be provided  
 if necessary. (Ninja Professional Blender)

39 k. 2/17/2015 – I was using my Ninja Professional blender. I mixed the  
 40 pancake batter and was unable to remove the top. I tried several grippers  
 41 in order to remove it and it wouldn't budge. I sat it upright on the counter  
 42 and turned to do something else. All of a sudden there was a loud bang.

The top flew off and went about 12 feet. The top contains the very sharp mixing blades and fortunately it did not fly in my direction or hit someone. The blades and force could have killed a child, pet or severely cut someone. Batter flew everywhere. I know that the lid was on straight. I have used this to mix this batter many times. I feel this is a great safety hazard. I did call the company about this incident but they seem to only be interested in settling a claim for damages. I do not feel that is an issue, but product safety is the issue. (Ninja Professional Blender 900W)

1. 3/5/2015 – The 6 Blades Assembly of this blender slipped right out of the Jar/Pitcher while I was emptying a fruit shake and severely cut my left thumb. The laceration was so deep that I was bleeding heavily and I couldn't stop the bleeding. My wife had to rush me E.R to get stitches and medical treatment. As a result of the accident I was unable to move my thumb, I had no sensation/feeling and the pain was awful. Due to the seriousness of my injury I was sent by the hospital to see a Hand Surgeon. After having a physical examination by the hand specialist, he determined that he needed to proceed surgery on my thumb to explore damage of the tendon and nerve. Indeed, during the operation he noted that my radial digital nerve was transected and I had scar tissue. He had to repair the radial digital nerve and removed the scar tissue. I have gone through hand therapy, numerous doctor visits and to this day my left thumb hasn't come back to its normal functionality. This accident occurred over a year ago and I'm only reporting it now because I was not aware of the Consumer Product Safety Commission. This blender is a dangerous hazard to consumers because its 6 Blades Assembly is extremely sharp and does not have an interlock/securing mechanism, it slips right off jar/pitcher. Until this day I have a hard time performing normal activities like I used to; I cannot even execute some at all because my left thumb has been permanently injured. I'm shocked to see that there have been many critical injuries like mine reported here and this flawed product stills on shelves for resale. This sharp blade assembly could fall on someone's arteries causing life-threatening hemorrhage, it should be recall immediately and removed from the market to prevent future injuries. (Ninja Professional Blender)
- m. 5/13/2015 - I seriously cut myself twice within 15 minutes while using this blender for the first time. I would not recommend this blender for anyone. In my opinion it is defectively designed. The Ninja uses a long attachment with concentric circular blades much unlike the normal blade design typically used in blenders. The Ninja's "razor blade Christmas tree" design provides no discernible benefit over the normal blade design yet increases the risk of injury exponentially. I seriously cut the index finger on my right hand while inserting the blade attachment into the pitcher. Minutes later, the attachment fell out of the pitcher into my left hand while I was pouring the contents of the pitcher onto a plate (the poorly mixed, half-blended contents, I might add). It caused a deep gash in my palm requiring four stitches to close. The attachment fell out of the pitcher because it is designed to sit loose on the base of the blender with no secure connection whatsoever. Not surprisingly, a quick review of Safer Products complaints shows others have been injured in the same manner and even more seriously. I was lucky to escape with only four stitches. I immediately returned the blender to the place of purchase for a full refund. Avoid at all costs. The Ninja blender is needlessly dangerous, almost as if the manufacturer set out to create a booby trap. Mission accomplished.

- n. 11/2/2015 – My husband was just using the ninja professional blender for the first time. When he went to pour the contents out the whole blade fell out and first slashed his finger then fell to the floor severely slicing his toe! The blade design of this blender is very hazardous. We are now on our way to the ER. (Ninja Professional Blender)
- o. 11/12/2015 – I was pouring a protein shake and there was still some left in the pitcher so I removed the top and began pouring remainder. I naively assumed that the blade was attached somehow. As I am pouring, the blade mechanism slides out and hits directly on the tip of my finger, slicing it wide open. (Ninja Professional Blender)
- p. 11/12/2015 - My wife was pouring pina coladas and the blade released causing a laceration to her hand when the ice shifted and the blade assembly fell out.
- q. 11/13/2015 – I was making a smoothie , it was a little thick which it should be! As I was pouring the smoothie into My cup the middle blades started falling out also, so I slightly touch it to hold it in place and the blades Sliced my index finger tip, it bleed so bad omg, I bandaged it up and now a couple week Later I see the recall !! Definitely needed!! I've been scared to use it and definitely will not let my children use it!! (Ninja Professional Blender)
- r. 11/13/2015 – bought this ninja blender a few weeks ago, went to make a smoothie and when I poured it out the blade came out with it and cut my thumb,, i spent 2 hours in the er and got 3 stitches (Ninja Professional Blender)
- s. 11/13/2015 – I was pouring my blender and the blade cut my right ring finger. I had to go to the Emergency room and get stitches. (Ninja Professional Blender)
- t. 11/13/2015 - Laceration to finger from dislodged blade after pouring approx 3 months ago. (Ninja Professional Blender)
- u. 11/13/2015 – I have a Ninja BL660 Professional Blender. While unpacking the blender, the spiral blending part slid out and sliced off a decent portion of my left middle finger (the tip). It healed ok but now I have a nasty scar. Obviously not a great experience; I wish there would have been some warning as to how sharp that was or some notice to handle it in a specific way to avoid this issue. (Ninja Professional Blender)
- v. 11/13/2015 – I had a deep cut to my finger from the blade of the blender as I was carefully washing it. I had reported this to Ninja and all they said was to be more careful. I requested for a refund and take the item back (although purchased from Amazon) but they said that they cannot do that because it was not purchased from them directly. Amazon too rejected the return since it had passed their return policy. I purchased this blender last September and found after that it was too dangerous that I wanted to return it. Sadly, both manufacturer and seller refused to take the return. **THE BLADES ARE INCREDIBLY SHARP AND EVEN THOUGH YOU HANDLE WITH EXTREME CARE, YOU CAN STILL GET LACERATIONS!** Please help! (Ninja Professional Blender)
- w. 11/13/2015 – I have been cut several times by the blades of the Ninja Blender BL660. (Ninja Professional Blender)
- x. 11/13/2015 – Laceration to the finger as a result of the blade (Ninja Professional Blender)
- y. 11/13/2015 – I used the blender to make a smoothie. While I was rinsing and cleaning up afterward, the blade fell out as I was pouring the excess



1 water out into the sink. My finger was cut in the process. The blade is very  
2 sharp and cut clean & deep requiring a trip to the ER and 5 stitches. (Ninja  
Professional Blender)

3 z. 11/13/2015 – slid out and cut hand (Ninja Professional Blender)

4 aa. 11/13/2015 - Just as others have stated... When I poured drinks from my  
5 Ninja Blender I have been cut a couple of times trying to dodge or just  
6 pouring wash water from the pitcher. I commented to my wife how  
dangerous this unit is as my thumb bled all over the kitchen. The blades  
are extremely sharp and you 'forget' that it is just sitting in the pitcher loose  
as you tilt the pitcher. Needs some kind of lock or better design to keep  
people safer.

7 bb. 11/14/2015 – I made a smoothie with my blender I was pouring them into  
8 a pitcher when the top blade disconnected from the lower blade and cut  
my hand. I was the 3rd person in my house to get cut by this blender.  
(Ninja Blender BL830)

9 cc. 11/14/2015 - I received the Ninja Mega Kitchen system blender as a  
10 Christmas gift in December 2013. As I unpacked the box and tried to take  
the 64 oz blender out of the box, I couldn't get it to release from the  
11 styrofoam. I pulled up on the handle not knowing that it was a locking  
mechanism. As I pulled the blender from the box, the top pulled off and  
12 the bottom of the blender fell away while the chopping blade fell out. The  
chopping blade lacerated the back of my leg, severing my sural nerve. My  
leg was operated on and an attempt to reconnect the sural nerve was  
13 attempted. Unfortunately, I deal with the pain daily from the injury almost  
two years later. (Ninja Mega Kitchen System)

14 dd. 11/15/2015 – The blades are dangerously sharp; I cut my index finger  
15 deeply when removing the blades to clean. Extra warnings should be  
given in the handling of the blades. (Ninja Professional Blender)

16 ee. 11/16/2015 – I was pouring a smoothie out of my Ninja blender and the  
blade assembly fell out and cut my hand. (Ninja Professional Blender)

17 ff. 11/17/2015 – I had just used my Ninja BL660 to blend up frozen fruit to  
18 make a smoothie. After I had finished blending the fruits, I took off the lid  
to pour the smoothie into my glass, but as I poured the drink the metal  
19 blades fell out of the blender and lacerated my thumb. (Ninja Professional  
Blender)

20 gg. 11/16/2015 – blade fell out of blender and almost cut my finger off, had to  
go to emergency room for 11 stitches (Ninja Professional Blender)

21 hh. 11/20/2015 - My daughter was pouring left over smoothie from the  
22 pitchers into the sink and the blade came out. She reached to catch and it  
sliced her finger open. We took her to our local emergency room where  
she received 3 stitches.

23 ii. 12/7/2015 – While handling the Ninja blender in a safe manner, I poured  
24 the contents of the blender out after removing the lid. The blade detached  
and put a deep gash into my finger when I tried stopping it from falling  
25 out and breaking the glass. I warned my children not to EVER touch this  
appliance, it could easily sever a digit or worse. I told my wife about the  
26 incident and she didn't heed my warning and cut her finger to the point  
that she won't let the kids use it and now she is very careful. Take this  
27 product off the shelves before some gets hurt badly. (Ninja Professional  
Blender)

28 jj. 1/2/2016 – bought the Ninja BL660 blender from amazon. After first use I  
went to wash it in the sink and the inner blades slid out and cut my hand

badly. (Ninja Professional Blender)

kk. 1/14/2016 – I received a Shark Ninja Blender as an early birthday gift. I crushed some ice in it right away to see how good it works. It was fantastic. It really does crush ice into snow. The problem with this product is that it is a real safety hazard. The blades do not lock in place and can fall out of the blender. It does not tell you on the box about the blades not being able to lock into place. My daughter's hand was cut open by the blade while I was rinsing the blender out. I tilted the blender to let the water out and the blade came right down on her hand. She had to get stitches and the scar tissue is thick that she still complains of being in pain after a month and a half after the incident. (Ninja Kitchen System BL701)

ll. 2/1/2016 – Caller feels that she experienced similar problems of recall#16-064. Hazard: The blender poses a laceration risk if consumers pour or invert the pitcher after removing the lid while the loose stacked blade assembly is still inside the pitcher. Caller stated that while the blender was in use the lid was not tightly secured causing the blade to fall out, hitting her on the left leg. She received a deep wound, which required 10 stitches. She was taken to the St Joseph's hospital in Pontiac MI by ambulance where she received treatment. She was treated and released for follow up. Caller contacted the company and they informed her that they had regretted the incident but that they could send additional bowls and other parts to the blender. Caller feels that the blender is unsafe and should be reported. (Nutri Ninja BL680)

mm. 3/17/2016 – I was injured by the "s" blade of the Ninja Mega Kitchen System 1500 Model BL773CO F15 Spring, while doing a refund on it at my job with Costco Wholesale. I received 3 stitches in my left thumb and butterfly bandages on my left middle finger. This model was sold on March 3rd 2016, used and then returned on March 11th 2016. While putting all components of the system back into the box after verifying all of the product was present; protocol for a refund the "s" blade sliced open my left thumb and left middle finger by reaching into the bowl to grab the shaft of the blade, instead the "s" blade cut me to the point of bleeding continually until I got to the health clinic for medical care and they took medical measures to stop the bleeding. This unit is past the one recalled from those sold between March 2012 and September 2015. When sharing my injury with friends I learned that this has happened to some of them and also to my sister. Why is this product still available to the public? It should have some sort of protective sleeve or blade protector. (Mega Kitchen System 1500)

nn. 3/14/2016 – Consumer stated that while the blender was in use for approximately 5 mins, he noticed sparks emitting from the bottom right sight side of the blender and there was a burning odor. He then noticed that it had developed into a black smoke. He immediately unplugged it and remove it outside. He had the blender for over a year and there was no prior incident. The manufacturer was not contacted as yet. Consumer feels that the blender is unsafe and should be reported. (Ninja Professional Blender BL770)

oo. 4/23/2016 - My 14 year old daughter was making a smoothie. It was our first time using the blender. She poured most of it out and took the lid off to get the final bit out. The blade came out and lacerated her thumb. She damaged the tendon, had multiple stitches and will need a cast for 6 weeks! (Ninja Professional Blender BL610)

1 pp.5/7/2016 – I purchased Ninja BL770 from Best Buy in November 2015.  
 2 While the product is very good. The serious design flaw is that the blade  
 3 can fall out while emptying the blended/processed contents from the jug.  
 4 This is because the blade is not locked into place. I understand that it is  
 5 expected that the consumer removes the blade before emptying. We have  
 6 been using the Ninja BL770 for 5 months now and every time the blade  
 7 falls out. Twice now it has caused injuries because the blade falls on the  
 8 thumb or finger. Today the blade fell out and caused a deep gash on my  
 9 thumb. I had to use 2 bottles of hydrogen peroxide and 1 bottle of  
 10 isopropyl alcohol to contain the bleeding. While the wound is deep it  
 11 cannot be stitched due to its location. This is a very serious flaw in the  
 12 design of this product that the blade is not locked and can fall out. For  
 13 years the blender industry has trained its users with locked blades - while  
 14 it is possible to get accustomed to "unlocked" blades from Ninja, I worry  
 15 that users like me are getting injured while using this product. (Mega  
 16 Kitchen System BL770)

17 qq.5/31/2016 – After making salsa in a Ninja kitchen blender, model NJ600  
 18 (not included in your recall) I removed the lid and began pouring the  
 19 contents into a bowl I was holding in my left hand. The blade assembly  
 20 fell from the blender onto my thumb, causing a sever laceration that  
 21 severed the extensor tendon. Urgent care sutured the cut and referred me  
 22 to a hand surgeon. I just spent six weeks in a splint to see if the tendon  
 23 would repair itself without the need for surgery. I have limited use of the  
 24 thumb at this point and a determination about surgery is pending. (Ninja  
 25 Blender NJ600)

26 rr. 7/18/2016 – My ninja blender cut my son's face. My husband was carrying  
 27 the blender to the refrigerator to put ice in it. As he raise the unit towards  
 28 the ice maker, the bad launched out, causing it to slice open my son's face.  
 [REDACTED] I have outstanding medical bills of around \$2672. Future  
 medical bills are projected to be \$10,000. Ninja kitchen is responsible for  
 this. My health insurance will not pay because they say it is 3rd party  
 responsible. My son is entitled to pain and suffering as well. I submitted a  
 link for an online calculator with an amount that is figured as a settlement  
 in this case. Ninja offered me \$7,500. That will not even cover the current  
 medical expenses along with future expenses, not to mention the pain that  
 my 3 year old son endured and the HUGE SCAR ON HIS FACE! My  
 ninja blender cut my son's face. My husband was carrying the blender to  
 the refrigerator to put ice in it. As he raise the unit towards the ice maker,  
 the bad launched out, causing it to slice open my son's face.  
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 in this case. Ninja offered me \$7,500. That will not even cover the current  
 medical expenses along with future expenses, not to mention the pain that  
 my 3 year old son endured and the HUGE SCAR ON HIS FACE! This  
 company is negligent, if you got to the Ninja Kitchen Facebook page, you  
 will see all the posts on there about injuries. Ninja conveniently hides  
 them, until they are called out and then they allow the posts to be visible  
 again. My son is not the only one to suffer an injury. The blade needs to  
 be locked in, the post it sits on needs to be longer, or held in place with a



magnet or pin. Someone from the safety department called me from his personal cell phone to discuss this matter with me. He admitted that this was not misuse of the product, the pitcher was not designed to be a stationary object. It has a handle and was designed to be carried. He said he is aware of how the blade sits in the pitcher, but they are at a loss of what to do, since it is so sharp and they don't know how to latch it in and make it safe for people to reach in and unlatch it. He said this approach seemed like the option with less risk of getting cut. (Ninja Kitchen System BL771)

ss. 1/19/2017 – On May 5, 2016, I was assembling our Ninja Master Prep Professional blender when it activated in my hand. I had it plugged in and was assembling the blade onto the machine part prior to putting it in the blender canister when it activated. It caused a very severe laceration to my right hand (dominant) palm and caused lacerations to my palmar arch artery, two nerves to my fingers, and a tendon going to my thumb. It would be very easy for another person to do this given that the blade did not need to be safely placed in the canister or locked in for it to activate. (Ninja Master Prep Professional Blender)

tt. 1/20/2017 – I recently purchased a Ninja Professional 1500. Today I was using my blender and I tipped the container upside down to pour the last of my smoothie into a glass. The blade came flying out and sliced my hand open. I went to the emergency room and had to get several stitches. (Ninja Professional 1500)

uu. 1/21/2017 – blade came out while I was pouring smoothie sliced two fingers on right hand lost fingernail on both (Ninja Professional Blender BL665)

vv. 3/26/2017 – Hello. I own a Ninja BL660 blender device. About less than a month ago, on a Sunday evening, I took my new blender right out of the box brand new, and proceeded to 'smoothie' some vegetables and fruits. All seemingly was going well, until I poured the beverage into my glass, using my right hand to pour, and my left hand middle finger was lacerated by the nonfound warning extremely dangerous and falling out spiraling blade. Just Tonight, Again, a month later after being scared half to death by this expensive and obviously dangerous product, I thought I'd give it one more try, being extremely cautious due to the last round of use. I went to pour my drink into my glass, still painful left hand so my right hand assisted. The blade this time literally dodged out of the blender housing, lacerating my Right Hand ring finger in the same way except way worse. (Ninja Professional BL660)

ww. 7/4/2017 – We just bought a new blender on 6/30/17. I went to move the blender from the box into the sink to soak in some bleach and water as doing so the blades slipped and I attempted to keep from falling to the floor and that's when the blade slipped and sliced the inside of my index finger as well as my ring finger. All I saw after that was blood spitting out into the sink..I drove myself to hospital around 11:20. I received about 6-10 stitches (Ninja Professional Blender)

xx. 7/24/2017 – My daughter suffered a deep laceration to her foot after the blade assembly from a Ninja BL660 fell out while pouring. We were using the blender for only the second time, and had removed the lid to check the consistency of our smoothie. My 8 year old son was pouring the smoothie in to cups, and the blade assembly slid out and fell to the floor, lacerating the top of my 5 year old daughter's foot. She has an one inch

laceration that required 5 stitches at the ER. The cut was very deep and almost went through the entire foot. I feel we were very lucky that she did not suffer a more serious laceration. Given her standing position, the weight, sharpness and fall trajectory of the blade assembly, the injury could have been much worse. She could easily have suffered a laceration to her arm or leg which could have resulted in a laceration to the radial or femoral artery. There is a warning on the lid, but it is a small 1 inch square sticker, light grey sticker on dark grey plastic. The lid does lock in place, but I don't think it's unusual to remove the lid from a blender. There should be some form of friction or locking mechanism, the blade assembly should not slip out as easily as it does. (Ninja Professional Blender)

yy. 10/19/2017 – I Purchase a Ninja Blender at Costco on Thursday Sep/28/2017. First time using it on Saturday Sep/30 went to make a smoothie for our 12 years old daughter. While poring it in a cup, the blades of blender came loose from it and hit my left hand lacerating 2 tendons on trigger finger. I Was treated at ER and went over surgery to reattach tendons. I m now wearing a cast and in a long recovery process. Just find out that the blender that I bought is not different from the ones Ninja recall few years ago (Ninja Professional 1000)

zz. 11/30/2017 – Brand new blender. I took it out of the box and the product was so difficult to put the plastic container on the blender motor that I was going to return to the store. When I turned it sideways to put back into the styrofoam packaging, I turn the blender container on its side and the inside blades do not lock, so they bounced out and made a large laceration and I had to be rushed to emergency for stitches (Ninja Professional Blender)

aaa. 12/25/2017 – I was using the ninja blender to make a smoothly. I felt I needed to remove the lid as the locking base wasn't unlocking. It was new. It is the only blender, I have used, whose blades, aren't attached. I only read about updated safety instructions, injuries and recalls, after the fact. I think this is a dangerous product for this reason. (Ninja Professional 1000)

bbb. 2/22/2018 - I was Using my Nutri Ninja, Blending a banana and a avocado, the Nutri Ninja exploded, and my left fingers and hand went down on the blades causing severe injuries to my fingers and hand, I was bleeding all over the place, lost quite a bite of blood by the time I got to the emergency room, I had to get 23 stitches, I went back for a follow up appointment with the doctor they told me to follow up with on 21 February 2018 and was told by the dr. that I have nerve damage and will need to get surgery to repair the nerve damage, my concerns are why is the nitri ninja still in the stores , I did not know and was not aware that there was a recall and if so why are they still being shipped out for sell, when they are causing severe injuries (Ninja Professional BL450)

31. SharkNinja had superior and exclusive knowledge of the Stacked Blade Assembly Defect and knew or should have known that the defect was not known or reasonably discoverable by Plaintiff and Class Members before they purchased the Ninja Blenders.

32. Plaintiff is informed and believes and based thereon alleges that

1 before Plaintiff purchased his Ninja Blender, and since at least 2012, SharkNinja  
2 knew about the Stacked Blade Assembly Defect through sources not available to  
3 consumers, including pre-release testing data, early consumer complaints, high  
4 failure rates and replacement part sales data, and other internal sources, including  
5 warranty data and private messages via social media and call places to customer  
6 support.

7 33. In fact, on or around November 12, 2015, SharkNinja issued a  
8 voluntary recall of Ninja BL660 series Professional Blenders stating that, “[t]he  
9 blender poses a laceration risk if consumers pour or invert the pitcher after  
10 removing the lid while the loose stacked blade assembly is still inside the  
11 pitcher.”<sup>6</sup> The recall affected approximately 1.1 million units sold in the United  
12 States between March 2012 and September 2015. The recall was prompted by 53  
13 reports of lacerations to the Consumer Product Safety Commission. However, the  
14 recall was “different from most in that Ninja [wasn’t] actually telling consumers to  
15 stop using their blenders, nor [was] it issuing a stop sale with retailers. Instead, it  
16 [was] giving customers a revised safety warning.” Thus, the Stacked Blade  
17 Assembly Defect continued and expanded as more models with Stacked Blade  
18 Assemblies were introduced to the public.

19 34. The existence of the Stacked Blade Assembly Defect is a material  
20 fact that a reasonable consumer would consider when deciding whether to  
21 purchase a Ninja Blender. Had Plaintiff and other Class Members known at the  
22 time of purchase that the Stacked Blade Assembly did not lock in place inside the  
23 blending pitcher or contain any safety lock mechanism, they would not have  
24 purchased the Ninja Blender or would have paid less for them.

25 35. Reasonable consumers, like Plaintiff, reasonably expect that blenders  
26 are safe, will function in a manner that will not pose a safety hazard, and are free  
27

28 <sup>6</sup> <https://www.cpsc.gov/Recalls/2016/Laceration-Injuries-Prompt-SharkNinja-to-Recall-Ninja-BL660-Blenders#>

1 from defects. Plaintiff and Class Members further reasonably expect that  
 2 SharkNinja will not sell blenders with known safety defects, such as the Stacked  
 3 Blade Assembly Defect, and will disclose any such defects to its consumers when  
 4 it learns of them. They did not expect SharkNinja to fail to disclose the Stacked  
 5 Blade Assembly Defect to them and to continually deny the defect.

6 36. To this day, SharkNinja has still not modified or redesigned the  
 7 defective components that continue to cause the Stacked Blade Assembly Defect.

8 37. Because of their reliance on Defendant's representations and  
 9 omissions, consumers have suffered an ascertainable loss of money, including,  
 10 without limitation, out of pocket costs incurred in purchasing the Ninja Blenders.  
 11 Further, because of its deceptive marketing and unfair competition with similar  
 12 manufacturers and brands whose blenders do not experience the Stacked Blade  
 13 Assembly Defect, SharkNinja realized sizable profits.

14 38. As the intended, direct, and proximate result of SharkNinja's false,  
 15 misleading, and deceptive representations and omissions, SharkNinja has been  
 16 unjustly enriched through more sales of Ninja Blenders and higher profits at the  
 17 expense of Plaintiff and the Class Members.

## 18 CLASS ALLEGATIONS

19 39. Plaintiff brings this lawsuit as a class action on behalf of himself and  
 20 all others similarly situated as members of the proposed Class pursuant to pursuant  
 21 to Federal Rules of Civil Procedure 23(a), 23(b)(2), 23(b)(3), and 23(c)(4). This  
 22 action satisfies the numerosity, commonality, typicality, adequacy, predominance,  
 23 and superiority requirements of those provisions.

24 40. The Class and Sub-Class are defined as:

25 **Nationwide Class:** All individuals in the United States  
 26 who purchased one or more Ninja Stacked Blade  
 27 Blenders from four years prior to the filing of this  
 complaint through the date of certification (the  
 "Nationwide Class" or "Class").

28 **California Sub-Class:** All members of the Nationwide  
 Class who reside in the State of California.

1                   **CLRA Sub-Class:** All members of the California Sub-  
 2                   Class who are “consumers” within the meaning of  
 3                   California Civil Code § 1761(d).

4                   **Implied Warranty Sub-Class:** All members of the  
 5                   Nationwide Class who purchased their Ninja Stacked  
 6                   Blade Blender in the State of California.

7                   41. Excluded from the Class and Sub-Classes are: (1) Defendant, any  
 8                   entity or division in which Defendant has a controlling interest, and their legal  
 9                   representatives, officers, directors, assigns, and successors; (2) the Judge to whom  
 10                  this case is assigned and the Judge’s staff; (3) any Judge sitting in the presiding  
 11                  state and/or federal court system who may hear an appeal of any judgment  
 12                  entered; and (4) those persons who have suffered personal injuries as a result of  
 13                  the facts alleged herein. Plaintiff reserves the right to amend the Class and Sub-  
 14                  Class definitions if discovery and further investigation reveal that the Class and  
 15                  Sub-Class should be expanded or otherwise modified.

16                  42. Numerosity: Although the exact number of Class Members is  
 17                  uncertain and can only be ascertained through appropriate discovery, the number  
 18                  is great enough such that joinder is impracticable. The disposition of the claims of  
 19                  these Class Members in a single action will provide substantial benefits to all  
 20                  parties and to the Court. The Class Members are readily identifiable from  
 21                  information and records in Defendant’s possession, custody, or control.

22                  43. Typicality: Plaintiff’s claims are typical of the claims of the Class in  
 23                  that Plaintiff, like all Class Members, was deceived by SharkNinja’s  
 24                  representations and omissions regarding the Stacked Blade Assembly and  
 25                  experienced the Stacked Blade Assembly Defect after purchasing a Ninja Blender.  
 26                  The representative Plaintiff, like all Class Members, has been damaged by  
 27                  Defendant’s misconduct in that they have incurred the over-valued costs of  
 28                  purchasing a Ninja Blender for a premium price in reliance on SharkNinja’s  
 29                  representations. Furthermore, the factual bases of SharkNinja’s misconduct are  
 30                  common to all Class Members and represent a common thread resulting in injury  
 31                  to all Class Members.

1           44. Commonality: There are numerous questions of law and fact  
 2 common to Plaintiff and the Class that predominate over any question affecting  
 3 only individual Class Members. These common legal and factual issues include  
 4 the following:

- 5           a. Whether SharkNinja misrepresented and/or failed to disclose material
- 6                 facts concerning its Ninja Stacked Blade Blender;
- 7           b. Whether SharkNinja's conduct was unlawful, unfair and/or
- 8                 deceptive;
- 9           c. Whether SharkNinja has a duty to disclose the true nature of the
- 10                 Stacked Blade Assembly;
- 11           d. Whether Plaintiff and other Class Members are entitled to equitable
- 12                 relief, including but not limited to a preliminary and/or permanent
- 13                 injunction;
- 14           e. Whether Plaintiff and other Class Members are entitled to damages;
- 15           f. Whether Defendant knew or reasonably should have known of its
- 16                 deceptive representations and omissions relating to the Ninja Stacked
- 17                 Blade Blenders; and
- 18           g. Whether Defendant is obligated to inform Class Members of their
- 19                 right to seek reimbursement for having paid for Ninja Stacked Blade
- 20                 Blenders in reliance on Defendant's misrepresentations.

21           45. Adequate Representation: Plaintiff will fairly and adequately protect  
 22 the interests of the Class Members. Plaintiff has retained attorneys experienced in  
 23 the prosecution of class actions, including consumer and product defect class  
 24 actions, and Plaintiff intends to prosecute this action vigorously.

25           46. Predominance and Superiority: Plaintiff and Class Members have all  
 26 suffered and will continue to suffer harm and damages as a result of Defendant's  
 27 unlawful and wrongful conduct. A class action is superior to other available  
 28 methods for the fair and efficient adjudication of the controversy. Absent a class



1 action, most Class Members would likely find the cost of litigating their claims  
 2 prohibitively high and would therefore have no effective remedy at law. Because  
 3 of the relatively small size of the individual Class Members' claims, it is likely  
 4 that only a few Class Members could afford to seek legal redress for Defendant's  
 5 misconduct. Absent a class action, Class Members will continue to incur  
 6 damages, and Defendants' misconduct will continue without remedy. Class  
 7 treatment of common questions of law and fact would also be a superior method to  
 8 multiple individual actions or piecemeal litigation in that class treatment will  
 9 conserve the resources of the courts and the litigants, and will promote  
 10 consistency and efficiency of adjudication.

# 11 **FIRST CAUSE OF ACTION**

## 12 **(Violation of California's Consumers Legal Remedies Act, California Civil** 13 **Code § 1750, *et seq.*)**

14 47. Plaintiff incorporates by reference the allegations contained in each  
 15 and every paragraph of this Complaint.

16 48. Plaintiff brings this cause of action on behalf of himself and on behalf  
 17 of the members of the CLRA Sub-Class.

18 49. Defendant is a "person" as defined by California Civil Code §  
 19 1761(c).

20 50. Plaintiff and CLRA Sub-Class Members are "consumers" within the  
 21 meaning of California Civil Code § 1761(d) because they bought the Ninja  
 22 Blenders for personal use.

23 51. By failing to disclose to Plaintiff and prospective Class Members and  
 24 concealing the true and actual nature of the Stacked Blade Assembly, Defendant  
 25 violated California Civil Code § 1770(a), as it represented that Ninja Stacked  
 26 Blade Blenders had characteristics and benefits that they do not have, represented  
 27 that Ninja Stacked Blade Blenders were of a particular standard, quality, or grade  
 28 when they were of another, and advertised Ninja Stacked Blade Blenders with the



1 intent not to sell them as advertised. See Cal. Civ. Code §§ 1770(a)(5)(7) & (9).

2 52. Defendant's unfair and deceptive acts or practices occurred  
3 repeatedly in Defendant's trade or business and were capable of deceiving a  
4 substantial portion of the purchasing public.

5 53. Defendant knew the Ninja Stacked Blade Blenders did not possess  
6 the characteristics and benefits as represented and were not of the particular  
7 standard, quality or grade as represented.

8 54. As a result of their reliance on Defendant's representations and  
9 omissions, Class Members suffered an ascertainable loss of money, property,  
10 and/or value of their Ninja Stacked Blade Blenders.

11 55. Defendant was under a duty to Plaintiff and Class Members to  
12 disclose the true and actual nature of the Ninja Stacked Blade Blenders because:

- 13 a. Defendant was in a superior position to know the true nature of the  
14 Stacked Blade Assembly;  
15 b. Plaintiff and Class Members could not reasonably have been  
16 expected to know about the Stacked Blade Assembly Defect; and  
17 c. Defendant knew that Plaintiff and Class Members could not  
18 reasonably have been expected to know about the Stacked Blade  
19 Assembly Defect;

20 56. In failing to disclose and misrepresenting the true nature of the Ninja  
21 Stacked Blade Blenders, Defendant knowingly and intentionally concealed  
22 material facts and breached its duty not to do so.

23 57. The facts Defendant concealed from or misrepresented to Plaintiff  
24 and Class Members are material in that a reasonable consumer would have  
25 considered them to be important in deciding whether to purchase the Ninja  
26 Stacked Blade Blenders or pay less. If Plaintiff and Class Members had known  
27 about the Stacked Blade Assembly Defect, they would not have purchased the  
28 Ninja Stacked Blade Blenders or would have paid less for them.



1           66. Plaintiff and Class Members are reasonable consumers who expect  
2 manufacturers, like SharkNinja, to provide accurate and truthful representations  
3 regarding the safety and design features of their products. Further, reasonable  
4 consumers, like Plaintiff, rely on the representations made by manufacturers  
5 regarding the safety and design features in determining whether to purchase and  
6 consider that information important to their purchase decision.

7           67. In failing to disclose and actively misrepresenting the true nature of  
8 the Stacked Blade Assembly Defect, Defendant has knowingly and intentionally  
9 concealed material facts and breached its duty not to do so.

10           68. Defendant was under a duty to Plaintiff and Class Members to  
11 disclose the true and actual nature of the Ninja Stacked Blade Blenders because:

- 12           a. Defendant was in a superior position to know the true nature of the  
13 Stacked Blade Assembly;  
14           b. Defendant made partial representations about the Ninja Stacked  
15 Blade Blenders without revealing the material information needed to  
16 determine whether to purchase; and  
17           c. Defendant actively concealed the true nature of the Stacked Blade  
18 Assembly Defect from Plaintiff and the Class.

19           69. The facts Defendant concealed from or misrepresented to Plaintiff  
20 and Class Members are material in that a reasonable consumer would have  
21 considered them to be important in deciding whether to purchase Ninja Stacked  
22 Blade Blenders or pay less. If Plaintiff and Class Members had known about the  
23 Stacked Blade Assembly Defect, they would not have purchased the Ninja  
24 Stacked Blade Blenders or would have paid less for them.

25           70. Defendant's conduct was and is likely to deceive consumers.

26           71. Defendant's acts, conduct and practices were unlawful, in that they  
27 constituted:

- 28           a. Violations of California's Consumers Legal Remedies Act;

- b. Violations of California's False Advertising Law;
- c. Violations of the Song-Beverly Consumer Warranty Act; and
- d. Violations of the Magnuson-Moss Warranty Act.

72. By its conduct, Defendant has engaged in unfair competition and unlawful, unfair, and fraudulent business practices.

73. Defendant's unfair or deceptive acts or practices occurred repeatedly in Defendant's trade or business, and were capable of deceiving a substantial portion of the purchasing public.

74. As a direct and proximate result of Defendant's unfair and deceptive practices, Plaintiff and the Class have suffered and will continue to suffer actual damages.

75. Defendant has been unjustly enriched and should be required to make restitution to Plaintiff and the Class pursuant to §§ 17203 and 17204 of the Business & Professions Code.

### **THIRD CAUSE OF ACTION**

#### **(Breach of Implied Warranty Pursuant to Song-Beverly Consumer Warranty Act, California Civil Code §§ 1792 and 1791.1, *et seq.*)**

76. Plaintiff incorporates by reference the allegations contained in each and every paragraph of this Complaint.

77. Plaintiff brings this cause of action against Defendant on behalf of himself and on behalf of the members of the Implied Warranty Sub-Class.

78. Defendant was at all relevant times the manufacturer, distributor, warrantor, and/or seller of the Ninja Stacked Blade Blenders. Defendant knew or had reason to know of the specific use for which the Ninja Stacked Blade Blenders were purchased.

79. Defendant provided Plaintiff and Class Members with an implied warranty that the Ninja Stacked Blade Blenders are merchantable and fit for the ordinary purposes for which they were sold. However, the Ninja Stacked Blade

1 Blenders are not fit for their ordinary purpose in that they suffer from a design  
2 defect.

3 80. Defendant impliedly warranted that the Ninja Stacked Blade  
4 Blenders were of merchantable quality and fit for such use. This implied  
5 warranty included, among other things: (i) a warranty that the Ninja Stacked  
6 Blade Blenders were manufactured, supplied, distributed, and/or sold by  
7 SharkNinja were safe and reliable; and (ii) a warranty that the Ninja Stacked  
8 Blade Blenders and their Stacked Blade Assemblies would be fit for their  
9 intended use during operation.

10 81. Contrary to the applicable implied warranties, the Ninja Stacked  
11 Blade Blenders at the time of sale and thereafter were not fit for their ordinary  
12 and intended purpose of providing Plaintiff and Class Members with a reliable  
13 and safe blender. Instead, the Ninja Stacked Blade Blenders are defective,  
14 including, without limitation, the defective design of the Stacked Blade  
15 Assembly.

16 82. The alleged Stacked Blade Assembly Defect is inherent in each  
17 Ninja Stacked Blade Blender and was present in each Ninja Stacked Blade  
18 Blender at the time of sale.

19 83. As a result of Defendant's breach of the applicable implied  
20 warranties, purchasers of the Ninja Stacked Blade Blenders suffered an  
21 ascertainable loss of money, property, and/or value of their blenders, including,  
22 but not limited to, the out-of-pocket costs incurred in purchasing the defective  
23 Ninja Stacked Blade Blenders.

24 84. Additionally, as a result of SharkNinja's deceptive marketing and  
25 labeling practices, Plaintiff and Class Members were harmed and suffered actual  
26 damages in that their Ninja Stacked Blade Blenders are substantially certain to  
27 fail before the expected useful life has run.

28 85. Defendant's actions, as complained of herein, breached the implied

warranty that the Ninja Stacked Blade Blenders were of merchantable quality and fit for such use in violation of California Civil Code §§ 1792 and 1791.1.

#### **FOURTH CAUSE OF ACTION**

##### **(Breach of Implied Warranty under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2303 et seq.)**

86. Plaintiff incorporates by reference the allegations contained in each and every paragraph of this Complaint.

87. Plaintiff bring this cause of action on behalf of himself and on behalf of the Nationwide Class, or, in the alternative, on behalf of the California Sub-Class, against Defendant.

88. The Ninja Stacked Blade Blenders are a “consumer product” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

89. Plaintiff and Class Members are “consumers” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

90. Defendant is a “supplier” and “warrantor” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

91. SharkNinja impliedly warranted that the Ninja Stacked Blade Blenders were of merchantable quality and fit for such use. This implied warranty included, among other things: (i) a warranty that the Ninja Stacked Blade Blenders were manufactured, supplied, distributed, and/or sold by SharkNinja were safe and reliable; and (ii) a warranty that the Ninja Stacked Blade Blenders and their Stacked Blade Assemblies would be fit for their intended use during operation.

92. Contrary to the applicable implied warranties, the Ninja Stacked Blade Blenders at the time of sale and thereafter were not fit for their ordinary and intended purpose of providing Plaintiff and Class Members with a reliable and safe blender. Instead, the Ninja Stacked Blade Blenders are defective, including, without limitation, the defective design of the Stacked Blade

1 Assembly.

2 93. Defendant's breach of implied warranties has deprived Plaintiff and  
3 Class Members of the benefit of their bargain.

4 94. The amount in controversy of Plaintiff's individual claims meets or  
5 exceeds the sum or value of \$25,000. In addition, the amount in controversy  
6 meets or exceeds the sum or value of \$50,000 (exclusive of interests and costs)  
7 computed on the basis of all claims to be determined in this suit.

8 95. Defendant has been afforded a reasonable opportunity to cure its  
9 breach, including customer complaints posted online and submitted to Defendant  
10 by Class Members since 2012.

11 96. As a direct and proximate cause of Defendant's breach of implied  
12 warranties, Plaintiff and Class Members sustained damages and other losses in  
13 an amount to be determined at trial. Defendant's conduct damaged Plaintiff and  
14 Class Members, who are entitled to recover actual damages, consequential  
15 damages, specific performance, diminution in value, costs, attorneys' fees,  
16 and/or other relief as appropriate.

17 97. As a result of Defendant's violations of the Magnuson-Moss  
18 Warranty Act as alleged herein, Plaintiff and Class Members have incurred  
19 damages.

20 **FIFTH CAUSE OF ACTION**

21 **(For Unjust Enrichment)**

22 98. Plaintiff incorporates by reference the allegations contained in each  
23 and every paragraph of this Complaint.

24 99. Plaintiff brings this cause of action on behalf of himself and on  
25 behalf of the Nationwide Class, or, in the alternative, on behalf of the California  
26 Sub-Class, against Defendant.

27 100. As a direct and proximate result of Defendant's failure to disclose  
28 known defects, Defendant has profited through the sale of said blenders.



1 Although these blenders are purchased through Defendant's agents, the money  
2 from the car seat sales flows directly back to Defendant.

3 101. Defendant has therefore been unjustly enriched due to the known  
4 defects in the Ninja Stacked Blade Blenders through the use of funds that earned  
5 interest or otherwise added to Defendant's profits when said money should have  
6 remained with Plaintiff and Class Members.

7 102. As a result of the Defendant's unjust enrichment, Plaintiff and Class  
8 Members have suffered damages.

9 **RELIEF REQUESTED**

10 103. Plaintiff, on behalf of themselves, and all others similarly situated,  
11 request the Court to enter judgment against Defendant, as follows:

- 12 a. An order certifying the proposed Class and Sub-Classes, designating  
13 Plaintiff as named representative of the Class, and designating the  
14 undersigned as Class Counsel;
- 15 b. An order enjoining Defendant from further deceptive advertising,  
16 sales, and other business practices with respect to its representations  
17 regarding the Ninja Stacked Blade Blenders;
- 18 c. A declaration requiring Defendant to comply with the various  
19 provisions of the Song-Beverly Act alleged herein and to make all the  
20 required representations;
- 21 d. An award to Plaintiff and the Class for compensatory, exemplary, and  
22 statutory damages, including interest, in an amount to be proven at  
23 trial;
- 24 e. Any and all remedies provided pursuant to the Song-Beverly Act,  
25 including California Civil Code § 1794;
- 26 f. Any and all remedies provided pursuant to the Magnuson-Moss  
27 Warranty Act;
- 28 g. A declaration that Defendants must disgorge, for the benefit of the

1 Class, all or part of the ill-gotten profits it received from the sale of  
2 Ninja Stacked Blade Blenders, or make full restitution to Plaintiff and  
3 Class Members;

4 h. An award of attorneys' fees and costs, as allowed by law;

5 i. An award of attorneys' fees and costs pursuant to California Code of  
6 Civil Procedure § 1021.5;

7 j. An award of pre-judgment and post-judgment interest, as provided by  
8 law;

9 k. Leave to amend the Complaint to conform to the evidence produced  
10 at trial; and

11 l. Such other relief as may be appropriate under the circumstances.

12 **DEMAND FOR JURY TRIAL**

13 Plaintiff hereby demands a trial by jury of any and all issues in this action so  
14 triable.

15 Dated: July 31, 2018

Respectfully submitted,

16 Capstone Law APC

17  
18 By: /s/ Jordan Lurie

Jordan L. Lurie  
Tarek H. Zohdy  
Cody R. Padgett  
Trisha K. Monesi

19  
20  
21 Attorneys for Plaintiff  
Daniel Murillo

# **EXHIBIT 1**

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Daniel Murillo

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DANIEL MURILLO, individually,  
and on behalf of a class of similarly  
situated individuals,

Plaintiffs,

v.

SHARKNINJA OPERATING LLC.,  
a Massachusetts limited liability  
company,

Defendant.

Case No.:

**DECLARATION OF DANIEL  
MURILLO IN SUPPORT OF  
VENUE FOR CLASS ACTION  
COMPLAINT PURSUANT TO  
CIVIL CODE § 1780(d)**

**DECLARATION OF DANIEL MURILLO**

I, DANIEL MURILLO, declare under penalty of perjury as follows:

1. I make this declaration based upon my personal knowledge except as to those matters stated herein that are based upon information and belief, and as to those matters I believe them to be true. I am over the age of eighteen, a citizen of the State of California, and a Plaintiff in this action.

2. Pursuant to California Civil Code § 1780(d), this Declaration is submitted in support of Plaintiff's Selection of Venue for the Trial of Plaintiff's Cause of Action alleging violation of California's Consumers Legal Remedies Act.

3. I reside in South Gate, California, which is in the County of Los Angeles. I purchased the Ninja Stacked Blade Blender that is the subject of this lawsuit in the County of Orange.

4. I am informed and believe that Defendant SHARKNINJA OPERATING LLC ("Defendant") is a Massachusetts limited liability company, organized and existing under the laws of the State of Massachusetts, and registered to conduct business in California. On information and belief, Defendant conducts business in Los Angeles and Orange County.

5. Based on the facts set forth herein, this Court is a proper venue for the prosecution of Plaintiff's Cause of Action alleging violation of California's Consumers Legal Remedies Act because the blenders that are the subject of this lawsuit are situated here, and a substantial portion of the events giving rise to my claims occurred here.

6. I declare under penalty of perjury under the laws of California and the United States of America that the foregoing is true and correct.

Executed on July 31, 2018, in South Gate, California.

DocuSigned by:  
*Daniel Murillo*  
08C780F6EAB64C9...  
**Daniel Murillo**